

STATE ARCHIVES AND RECORDS COMMISSION
Minutes of the Quarterly Meeting
June 12, 2008
Department for Libraries and Archives

The State Archives and Records Commission met at 10:00 a.m., Thursday, June 12, 2008, in the Board Room, Kentucky Department for Libraries and Archives (KDLA), 300 Coffee Tree Road, Frankfort, Kentucky.

Members present: Wayne Onkst, Chairman; Terry Birdwhistell, representing the University of Kentucky; James Kastner, representing the Kentucky Historical Society; Robin Rader, representing Citizens-at-Large; and David Schroeder, representing the Kentucky Library Association; and Dean Johnson, representing local governments.

Representatives present: Shannon Morgan, representing Helen W. Mountjoy, Secretary, Education Cabinet; Amye Bensenhaver, representing Jack Conway, Attorney General; Greg Giesler, representing Crit Luallen, Auditor of Public Accounts; Leslie Smith, representing Robert Sherman, Director, Legislative Research Commission; Charles Robb, representing Lori Flanery, Acting Commissioner of Technology; Glenna Mays, representing Mary E. Lassiter, State Budget Director.

Members not present or represented: Joseph Lambert, Chief Justice of the Supreme Court; Emily Dennis, representing Citizens-at-Large; Leah Hawkins, representing Citizens-at-Large; and Brian Smith, representing Citizens-at-Large.

Public Records Division staff present: Barbara Teague, Director, Public Records Division; Jerry Carlton, Manager, Local Records Branch; Glen McAninch, Manager, Technology Analysis and Support Branch; Jim Cundy, Manager, State Records Branch; Mark Myers, Electronic Records Archivist; Pam Compton, Records Analyst; Jackie Arnold, Records Analyst; Audrey Terry, Electronic Records Specialist; and Connie Renfroe, Division Secretary.

Guests present: None.

Onkst called for introductions by those present.

Mr. Schroeder made a motion to accept the minutes of the previous Commission meeting, seconded by Ms. Bensenhaver. The vote by members and representatives present was unanimous.

NEW OR REVISED RETENTION SCHEDULES

Cabinet for Families and Children – Commission for Children with Special Health Care Needs

Compton was the Records Analyst working on this schedule revision. **Additions to the Schedule:** Series 05762, Clinic Service Slip. **Revisions to the Schedule:** Series 03242, Licensed Professionals Continuing Education Records, from 7 years to 12 years; Series 03246, Client's Medical Record from 5 years to Indefinite; Series 03251, Early Hearing Detection and Intervention Program from 8 years to 3 years; Series 03253, Speech and Hearing Reports – Medical from 2 years to Indefinite; Series 03254, Speech and Hearing Reports – Non-Medical from 5 years to Indefinite; Series 03255, Patient Medical Record for Hemophilia from 20 years to Permanent; Series 03256, Human Immuno Deficiency Virus Test Results from 3 years to Permanent; Series 03258, Patient Progress File – Physical Therapy from 5 years to Indefinite; and Series 03261, Patient Progress File – Occupational Therapy from 5 years to Indefinite. *The following do not represent changes in retention or disposition. Rather Description and Analysis Forms were completed for these series:* Series 03204, Patients Statement of Account; Series 03240, Grant Project Proposals and Guidelines; Series 03241, Photographs Series 03245, Eligibility Acceptance/Rejection File; Series 03247, Kardex File of Patients; and Series 03260, Wheelchair Prescription File. *Closed Series:* Series 03195, Client's Chart; Series 03196, Position Control Report; Series 03197, Increment List; Series 03198, Time Audit, Report 3; Series 03199, Time Audit, Report 8; Series 03200, Total Practice Management System; Series 03201, Health Insurance Plan; Series 03202, Medical Assistance Statement – Medical; Series 03203, Medical Assistance Statement – Dental; Series 03243, Patient Encounter Forms; Series 03244, Patient Encounter – Hemophilia; Series 03248, Total Practice Management System (TPMS 1.03); Series 03249, Doctor Office Visit File; Series 03252, Hearing Conservation Program File; Series 03257, Patient Psychology File; and Series 04316, Transmittal of Title XVI Referral to Designated State Agency

The Commission for Children with Special Health Care Needs (CCSHCN) is authorized to provide medical services to children with special health care needs pursuant to KRS 200.460 to 200.490, and the Hemophilia Program is included in KRS 200.550 and 200.560. These services are provided through contracts or other agreements that allow staff to locate, diagnose, treat, habilitate, or rehabilitate children with disabilities and may include auxiliary services such as room and board and travel for patients and parents or parent substitutes. The children are placed under the care and/or treatment by physicians or surgeons deemed by the Commission for Children with Special Health Care Needs as qualified and may place the children in a hospital or home properly equipped to render the necessary treatment that is required.

This is a complete revision of the retention schedule for the Commission for Children with Special Health Care Needs.

Compton summarized the schedule revision. The new schedule includes a summary of the electronic system used by CCSHN staff, along with a list of the records series contained on the system.

Bensenhaver said that Kentucky's statutory limits on access, such as KRS 61.878(1)(a) and statutes applicable to the agency itself, would supersede the Health Insurance Portability and Accountability Act (HIPAA) when considering restrictions to these types of records.

Mr. Johnson made a motion to adopt the schedule revision, seconded by Bensenhaver. The vote by the members and representatives present was unanimous.

Commerce Cabinet – Department of Fish and Wildlife Resources – Division of Fisheries

Arnold was the Records Analyst working on these additions. **Additions to Schedule:** Series 05725, Trophy Fish Awards; Series 05741, Site Technical Guidance File; Series 05748, Mussel Harvest Reports; Series 05752, Pond Harvest Data (Hatcheries); Series 05778, Transportation Permits; Series 05779, Special Net Fish Permits; and Series 05780, Fisheries Management Permit. **Revisions to Schedule:** *The following do not represent changes in retention or disposition. Rather Description and Analysis Forms were completed for these series:* Series 02133, Report on Pollution or Fish Kill; Series 02134, Farm Pond Stocking Card; Series 02135, Public Water Stocking Card; Series 02136, Lake Management Plans ; Series 02137, Commercial Fishing Harvest; Series 02138, Permits for Boat Dock Construction; Series 02139, Fish Population, Age and Growth Studies Field Data; Series 02140, Federal Aid Grants ; Series 02146, Corps of Engineer Permits; Series 02148, Annual Performance Reports – Federal Aid; Series 02150, Scientific and Educational Collection Permits; and Series 02152, Propagation Permits. **Deletions from Schedule:** Series 02132, Fisheries Expense Budget – General Schedule F0002 & F0004; Series 02141, Plans, Specifications and Estimates for Federal Aid Projects, – Incorporated into Series 02140, Federal Aid Grants; Series 02142, Preliminary Project Statement Reports – Incorporated into series 02140 ; Series 02143, Federal Aid Project Final Completion Reports – Incorporated into series 02140; Series 02144, Topographical Map – General Schedule M0018; Series 02145, Environmental Impact Statements – General Schedule M0018; Series 02147, Federal Aid Activity Log – Incorporated into series 02148, Annual Performance Reports-Federal Aid ; Series 02149, Application for Chemical Treatment of Ponds – No longer created; and Series 02151, Miscellaneous Treatment and Permit Receipts – No information at this time.

The functions of the four-member Game and Fish Commission created in 1912 were placed in the Department of Conservation when it was created in 1936. The Department of Fish and Wildlife was created by the 1944 General Assembly, when the Division of Game and Fish was removed from the Department of Conservation. The Department of Fish and Wildlife received its current name in 1952. The Department, as established by KRS 150.021, is responsible for the protection and improvement of fish and wildlife resources throughout Kentucky. It is under the general supervision of the Fish and Wildlife Resources Commission. The Commission, established by KRS 150.022, is a bipartisan body of nine members, one from each of the nine districts, appointed by the Governor from a list of five provided by sportsmen in each district. The Commission is responsible for developing Department policy by approving administrative regulations. The Department of Fish and Wildlife is headed by a Commissioner appointed by the Fish and Wildlife Commission, pursuant KRS 150.061. The Commissioner is responsible for staffing, expending funds and administering programs of the Department. Financial support of the Department is derived from its sale of hunting and fishing licenses, miscellaneous licenses, federal grants and fines and penalties assessed by the courts for violation of game and fish laws.

The Department has seven divisions: Law Enforcement Division, Administrative Services Division, Engineering Division, Fisheries Division, Information and Education Division, Wildlife Division and Public Affairs and Policy Division.

This represents a complete revision of the Division of Fisheries retention schedule.

Arnold summarized the schedule revision. The new schedule includes a summary of the electronic systems used by Division of Fisheries staff, along with a list of the records series contained on those systems.

Mr. Birdwhistell made a motion to adopt the schedule revision, seconded by Mr. Kastner. The vote by the members and representatives present was unanimous.

Governor's Office for Local Development

Arnold was the Analyst working on this schedule revision. **Additions to Schedule:** Series 05794, Renaissance on Main/Renaissance Kentucky Grant File. **Revisions to Schedule:** Series 05754, Budgetary Line Item Project Files from Permanent to 8 years; Series 05755, Special Intra-Governmental Program Project Files from Permanent to 8 years; and Series 05756, Community Economic Growth Grant Files from Permanent to 8 years (Note: Grant application to remain a permanent record). *Closed Series:* Series 00558, County Sinking Fund Report File. *The following does not represent a change in retention or disposition. Rather a Description and Analysis Form was completed for this series:* Series 04728, Local Government Economic Development Fund Program –

Confidentiality restriction added (KRS 131.190(1) & (4) [Tax Information]). **Deletions from Schedule:** Series 04720, Community Rivers and Streams Program Files; and Series 04724, Downtown Revitalization Project Files.

The Governor's Office for Local Development, formerly the Department for Local Government, provides financial help in the way of grant and loan assistance, as well as advising local governments in matters of budget, personnel and other items relevant to those entities. These include procurement, financial management, property tax rates, community revitalization or economic development, training of officials and intergovernmental relations between the commonwealth and the federal government. Subunits of the office include the Office of Legal Services, the Office of Finance and Administration, the Office of Federal Grants, the Office of State Grants, the Kentucky Infrastructure Authority and the Office of Field Services.

This is a complete revision of the Governor's Office for Local Development's Retention Schedule.

Arnold summarized the revised schedule. The permanent retention on Series 05756, Community Economic Growth Grant Files, is proposed in response to concerns of members of the Archives and Records Management Advisory Committee. This series, Series 05754, Budgetary Line Item Project Files, and Series 05755, Special Intra-Governmental Program Project Files, were put before that Committee on March 6, 2008. Committee members believed the files might contain valuable information describing the communities involved, and that the information could warrant a longer retention than the then-proposed eight years. Upon further investigation, Arnold found that Series 05756 contains substantive descriptions of the grantees' communities, while Series 05754 and 05755 do not. The applications for Series 05756, which contain the descriptive information, will be removed from the grant file and maintained permanently, while the balance of the file will be destroyed after eight years.

Cundy said that, while Ms. Dennis could not attend the meeting, she had reviewed the proposed schedules and had sent him the following e-mail message:

I want to let you know that I reviewed the board materials and have **great concern** with the Governor's Office for Local Development (GOLD) proposing a change to its retention schedule for budgetary line items from a permanent record to 8 years. Having worked on line item projects at Economic Development and knowing the amount of money that goes through an agency as line item budget projects, it seems to me that these records should be maintained for much longer than 8 years. I know as an attorney for the agency, I would look to agreements from years past as guidance for current agreements. Some projects take years of line item budget funds to finance, totaling millions of dollars, and there are multiple agreements in place with any one given local agency that expire on different dates. What are the retention periods for

the Finance and Administration Cabinet, the Commerce Cabinet, or Economic Development on these line item project files? Local Government (now GOLD) administers the bulk of the line item budget items, and I am sure that retention of the records is a difficult management issue, however, retention of these records is important to keep agency knowledge intact (as people retire and move on) and from a public perspective, how the government spends its money, on what projects and to the benefit of whom, is tantamount.

In response, Arnold had contacted the General Counsel for GOLD, who said that he thinks an eight-year retention is longer than necessary for administrative purposes. Further, dollar amounts for given projects can be found in their authorizing legislation.

Staff will check on retention of equivalent files at other agencies. Carlton said that guidelines for federal grants require retention of no longer than five years.

Bensenhaver made a motion to adopt the schedule revision, without approving the changes to Series 05754, Budgetary Line Item Project Files; Series 05755, Special Intra-Governmental Programs Project Files; and Series 05756, Community Economic Growth Grant Files, seconded by Birdwhistell. The vote by the members and representatives present was unanimous.

Louisville/Jefferson County Metro Government

Carlton was the Regional Administrator working on these additions. **Additions to the Schedule: Department of Housing and Family Services – Housing and Community Development:** L6062, Investor Loan Program Files; L6063, Real Property Appraisal Records; L6064, Second Mortgage Forgivable Loan; L6065, Developers Loan Files; L6066, Loan Servicing File; L6067, Dept. of Housing Relocation Files; L6068, Acquisition & Relocation Project Files; L6069, Real Property Title Deeds; L6070, Home Repair Program Files; L6071, CHDO Working Files (Community Housing Development Org.); L6072, Program Management Files; L6073, Tenant Based Rental Assistance Case File. **Department of Public Health and Wellness:** L6014, Final Closeout Reports; L6015, Financial Records File; L6017, Vaccine Activity Worksheet & Order Record; L6019, Official Budget; L6020, Establishment of Public Health Tax Rate; L6021, Board of Health Minutes; L6025, Audit Report; L6026, Certification of Eligibles; L6027, Internal Management Reports Other than Financial (e.g., Patient Appointments, Staff Schedules, Monthly Patient/Client Statistical Computer Reports); L6028, Reportable Disease Records; L6029, Inventory of Equipment; L6030, Applications for Permit to Operate; L6031, Onsite Sewage Files; L6032, Establishment Files (Businesses which have obtained operating permits); L6033, Environmental Health Management Information System Reports; L6034, Plats, Maps, Surveys, Blueprints and Plan Review Sheets; L6035, Adult Patient Home Health Medical Record; L6036, Minor Patient Home Health Medical Record; L6037, Home Health Advisory Committee Minutes; L6038,

HIV/AIDS Care Coordinator Client Record; L6039, Perinatal Hepatitis B Prevention Form for Infants; L6040, Chest X-Rays for Tuberculosis Infection and/or Disease; L6041, Patient Drug and Device Log; L6042, Incident/Accident/Complaint Reports; L6043, Pap Smear, Mammogram and Abnormal CBE Logs; L6044, Immunization Record (Master Record) ; L6045, Master Patient Index; L6046, Minor Patient Medical Record; L6047, Adult Patient Medical Record; L6048, Laboratory Records for CLIA; L6049, Notice and Order to Vaccinate Dog Against Rabies; L6050, Animal Quarantine Notice; L6051, Rabies Vaccination Certificate; L6052, Application for Permit to Disinter and Reinter in Same Cemetery; L6053, Certificate of Live Births; L6054, Certificate of Stillbirth; L6055, Death Index-Report 677; L6056, Provisional Certificate of Death; L6057, Permit for Disinterment and Reinterment in the Same Cemetery; L6058, Birth Index by Name of Child; L6059, Birth Index by Maiden Name of Mother; L6060, WIC Revalidation Information; and L6061, WIC Vendor File. **Louisville Metro Police Department – False Alarm Reduction Unit:** L6074, False Alarm Property Liens; L6075, Alarm Technician Applications; L6076, False Alarm Appeals Granted & Denied; L6077, Alarm Business Applications.

Louisville and Jefferson County merged into the Louisville/Jefferson County Metro Government in January 2003. This took place after special legislation was passed whereby a county with a first class city could merge into one government. A referendum was on the ballot in 2001 and was passed by voters in Jefferson County. Under the new government, many of the existing incorporated municipalities could join the new merged government or retain their legal status. As of right now there are still over 80 independent cities in Jefferson County.

This is the first attempt to consolidate existing Jefferson County and City of Louisville record retention schedules, to add new record series and to bring up to date the changes made to departments, divisions, programs and other Louisville Metro Government agencies after the merge.

Carlton summarized the new schedules. Local Records and Louisville Metro Archives staff have been making efforts to complete a new schedule for the merged government, so Commission members will see more proposed schedules in September.

Members of the Advisory Committee had asked whether the grant files in the Housing and Community Development section contained narrative information that should be maintained for a longer period. Carlton said that the Housing and Community Development Records Series are related to U. S. Department for Housing and Urban Development (HUD) programs such as Community Development Block Grants (CDBG), and the Home Investment Partnerships Program (HOME). These grants are given to the Louisville/Jefferson County Metro Government and the money is distributed to non-profit organizations that help to build low-cost housing. The records are working files maintained by Housing and Community Development. The retention for both the CDBG

and HOME files is mandated in the Code of Federal Regulations. Files maintained by the U. S. Department for Housing and Urban Development (HUD) would contain financial and final narrative reports.

In response to a question by Bensenhaver, Carlton said the files would not come to the State Archives, but may be sent to the Louisville/Jefferson County Metro Archives.

Birdwhistell made a motion to adopt the schedule revision for the Department of Housing and Family Services, seconded by Mr. Giesler. The vote by the members and representatives present was unanimous.

The records series on the Department of Public Health and Wellness are identical in substance to series on the Retention Schedule for Local Health Departments.

Ms. Smith made a motion to adopt the schedule revision for the Department of Public Health and Wellness and the Louisville Metro Police – False Alarm Reduction Unit, seconded by Bensenhaver. The vote by members and representatives present was unanimous.

Department of Military Affairs – Kentucky Bluegrass ChalleNGe Academy

Compton was the Records Analyst working on these schedule additions. **Additions to the Schedule:** Series 05786, Cadet Application; Series 05787, Cadet Performance Evaluation File; Series 05788, Cadet Medical File; Series 05789, Cadet Clinical Therapy File; Series 05790, Cadet Meal Records; Series 05791, GED Eligibility File

The National Guard Youth ChalleNGe Academy is a program created under the National Guard Youth Foundation, a non-profit organization, and is administered by the National Guard Bureau on behalf of the Department of Defense. The Bluegrass ChalleNGe Program, a preventive rather than remedial youth-at-risk program, targets participants who are unemployed and drug free high school dropouts, without a legal record, 16 to 18 years of age. The core components of the program are citizenship, academic excellence (attaining a GED/high school diploma), life coping skills, community service, health and hygiene, skills training, leadership/followership and physical training. The Program consists of a five month Residential Phase and is followed by a year long mentoring relationship with a specially trained member from the youth's community.

Compton summarized the schedule additions.

Schroeder made a motion to adopt these schedule additions, seconded by Kastner. The vote by the members and representatives present was unanimous.

Board of Chiropractic Examiners

Compton was the Records Analyst working on these additions. **Additions to the Schedule:** Series 05781, Examination Materials; Series 05782, Examination Failure File; Series 05783, Incomplete Application File; Series 05784, Continuing Education -- Applications for Credit Approval; and Series 05793, Incomplete Examinations

The Kentucky Board of Chiropractic Examiners is responsible for regulating the practice and licensure of chiropractic in the Commonwealth of Kentucky. The Board grants initial licensure to qualified chiropractors and oversees the annual renewal of licenses. The Board also investigates complaints against practitioners and is responsible for imposing disciplinary sanctions against those who violate KRS Chapter 312 and KAR 201 Chapter 21. The Board promulgates continuing educations and licensure requirements.

Compton summarized the schedule additions.

Kastner made a motion to adopt the schedule additions, seconded by Ms. Smith. The vote by the members and representatives present was unanimous.

Education Cabinet – Department of Education – Office of District Support Services – Division of Data Management – Audit and Compliance Branch

Arnold was the Records Analyst working on this addition. **Addition to the Schedule:** Series 05795, Federal Reimbursement for Health Insurance.

The Kentucky Board of Education hires the Commissioner of the Department of Education. The organizational structure includes two deputy commissioners who head the Bureau of Operations and Support Services and the Bureau of Learning and Results Services. The Bureau of Operations and Support Services includes the Office of Internal Administration and Support; the Office of Education Technology; and the Office of Legal, Legislative and Communication Services. The Bureau of Learning and Results Services includes the Office of Special Instructional Services; the Office of Leadership and School Improvement; the Office of Assessment and Accountability; the Office of Teaching and Learning; and the Office of District Support Services. The Office of District Support Services (ODSS) provides information and support for district programs in areas such as: facilities, transportation, nutrition, health services and student information systems.

Within the Office of District Support Services there are four divisions: the Division of Facilities Management; the Division of Nutrition and Health Services; the Division of District Operations; and the Division of Data Management.

Arnold summarized the schedule addition.

Birdwhistell made a motion to adopt the schedule addition, seconded by Mr. Johnson. The vote by the members and representatives present was unanimous.

Education Cabinet – Department of Workforce Investment – Office of Employment and Training

Arnold was the Records Analyst working on these schedule revisions and deletions.

Revisions to the Schedule: *Closed Series:* Series 2219, Progress reports -CETA; Series 2220, Program Summary - CETA; Series 2224, Classroom Training - CETA; Series 2225, Institutional Training - MDTA; Series 2228, MDTA/CETA Contract Files; Series 2232.1, Program Contracts - WE/PSE; Series 2233, Allocation letters - Title II/ VI; Series 2234, County Grant projects - CETA/PSE; and Series 2235, Invoices Title II/VI - CETA/PSE. **Deletions from the Schedule:** Series 173, Analysis; Series 200, Job bank docs; Series 1625, Conference materials; Series 1632, Statistical Reports; Series 1633, gen admin reports; Series 1636, transmittal letters; Series 1637, SS Account ID Card; Series 1638, SS cross index cards; Series 1649, Monthly Summary Journals; Series 1652, Journal of Adjustments; Series 1653, Employer number address cards; Series 1655, Pay in Vouchers; Series 1663, Vouchers for gen ledgers; Series 1665, Dept copies pay-in vouchers; Series 1681, Notices of highway dept contracts; Series 2183, YCC; Series 2186, Veteran's Monthly Report; Series 2210, On-site appraisals; Series 2215, Contracts (dups); Series 2216, Statistical Reports; Series 2217, Program Status Reports; Series 2218, Program Status Reports; Series 2218.1, CETA client records; Series 2222, CETA register; Series 2223, Issuance- USDL; Series 2227, Fiscal pay ledgers; Series 2229, Fiscal pay vouchers; Series 2230, Grievance file; Series 2231, Monthly status; Series 2232, Statistical Reports; Series 2232.2, Grievance file; Series 2232.3, Ledgers supporting reports; Series 2232.4, Enrollee files; Series 2236, Enrollee files; Series 2237, Fiscal pay ledgers; Series 2238, Program Summaries; Series 2239, Grievance file; Series 2240, Payroll register; Series 2241, Payroll vouchers; Series 2242, Pay warrants; Series 2243, Time and attendance; Series 2245, Field reports; Series 2246, Individual Participant records; Series 2247, Program Status Reports; Series 2248, Statistical Reports; Series 2249, Statistical Reports Annual; Series 2251, Fiscal pay ledgers; Series 2255, Program Status Reports; Series 2257, Grievance file; Series 2260, Status reports; Series 2261, Agency plans; Series 2262, Local study reports; Series 2263, Monthly info reports; Series 2264, appraisal reports; Series 2265, appraisal reports; Series 2266, stats report; Series 2267, appraisal reports; Series 2273, Training proposal; Series 2274, Proposal; Series 2275, Action plan; Series 2280, Statistical report; Series 2289, Work Table; Series 2290, CETA contracts (dups); Series 2291, Contracts awarded; Series 2292, Jobs for vets; Series 2293, Summaries; Series 2294, Medic program; Series 2295, Pres program; Series 2297, Agency plans; Series 2299, appraisal reports; Series 2307, Job bank docs; Series 2311, appraisal reports; Series 2312, Job bank docs; Series 2314, Test materials; and Series 3399, Pay order card.

Functions of the Office of Employment and Training fall into three broad areas: services to job seekers and employers; compiling and distributing labor market information for individuals, businesses and units of government; and providing Unemployment Insurance short term benefits. The original schedule was created in 1976 when the agency was at the Department level within the Cabinet for Human Resources. Many of the specific series scheduled at that time are now covered in the General Schedule. The deletions from the Office of Employment and Training schedule reflect an ongoing review to determine which agency-specific series now fall under categories in the General Schedule.

Deleted series are either covered on the General Schedule for State Agencies or are no longer produced and are past their retention periods. Closed series involve training programs that no longer exist.

Bensenhaver made a motion to adopt the schedule additions and revisions, seconded by Giesler. The vote by the members and representatives present was unanimous.

Governor's Office of Energy Policy

Arnold was the Records Analyst working on these deletions. **Deletions from Schedule:** Series 01331, Board Resolutions – Captured by General Schedule series M0008; Series 01333, Press Releases – Captured by General Schedule series M0045; and Series 01334, Motion Pictures... - Captured by General Schedule series M0046

The Governor's Office of Energy Policy was created in October 2006 when the former Kentucky Office of Energy Policy was moved from the Commerce Cabinet to the Governor's Office. The Kentucky Office of Energy Policy was created in June 2005 in the Commerce Cabinet. The Office was a consolidation of the former Kentucky Division of Energy and the Kentucky Coal Council. The Kentucky Division of Energy (KDOE) is now the Kentucky Division of Renewable Energy and Energy Efficiency (KDRE3). The Kentucky Coal Council is now the Division of Fossil Fuels and Utility Services. Pursuant to KRS 152.710 TO 152.725 the Governor's Office of Energy Policy implements and manages programs that seek to: maintain Kentucky's low-cost energy; responsibly develop Kentucky's energy resources; and preserve Kentucky's commitment to environmental quality.

Arnold summarized the schedule deletions.

Schroeder made a motion to adopt the schedule deletions, seconded by Ms. Smith. The vote by the members and representatives present was unanimous.

Justice and Public Safety Cabinet – Office of the Secretary – Office of Investigations

Compton was the Records Analyst working on these additions and changes. **Additions to Schedule:** Series 05734, Special Local Peace Officer Applications; and Series 05739, Special Law Enforcement Officer Applications. **Revision to the Schedule:** Series 04850, Investigative Report File from 8 years to 23 years.

The Department of Justice was created by Executive Order 73-805, issued on September 11, 1973, when the Department of Public Safety and the Department of Corrections, the Crime Commission, certain functions of the Kentucky Law Enforcement Council, and the Office of the Public Defender were merged. The Department included the Bureau of Training, Bureau of State Police and Bureau of Corrections. In 1982, the Department of Justice became the Justice Cabinet and the Bureau of Corrections became the Corrections Cabinet. In 1992, the Corrections Cabinet was abolished and the Department of Corrections was created within the Justice Cabinet. The Justice Cabinet is headed by a Secretary and consists of the Department of Criminal Justice Training, the Department of Juvenile Justice (created in 1996), the Department of Kentucky State Police and the Department of Corrections.

The Office of the Secretary includes the Secretary, Deputy Secretary and General Counsel personnel for the Justice Cabinet. The Office is responsible for the overall administration of the Cabinet; provision of legal services; development of legislation, regulation and policy; and coordination of activities within the Cabinet and among Cabinet departments and agencies.

Compton summarized the additions and revision. Series 05734, Special Local Peace Officer Applications; and Series 05739, Special Law Enforcement Officer Applications had been reviewed by Commission members at their March 13, 2008 meeting. The proposed retention had been permanent and Commission members had not approved them. At that time, the Department of State Police had created and maintained the records. Since then, these functions had been transferred to the Justice and Public Safety Cabinet's Office of Investigations. Office of Investigations staff suggested a ten-year retention period. The change in retention on Series 04850, Investigative Report File, is due to a large amount of reentry into the records.

Ms. Smith made a motion to adopt the schedule additions and revision, seconded by Johnson. The vote by the members and representatives present was unanimous.

Legislative Research Commission

Compton was the Records Analyst working on this addition. **Addition to the Schedule:** Series 05792, Capital Planning Advisory Board Submissions

The Legislative Research Commission duties are outlined in KRS 7.100. Legislative Research Commission Library Services is one of several services offered to the public and state agencies. Services offered include circulation non-reference material, reference material which includes legislative newsletters, statutes and regulations, legislation, Committee Minutes and audio recordings and General Assembly Session video recordings from 1992.

Compton summarized the schedule addition.

Birdwhistell made a motion to adopt the schedule addition, seconded by Kastner. The vote by the members and representatives present was unanimous.

Local Government General Records Retention Schedule – Public Works

Carlton was the Regional Administrator working on these additions. **Additions to the Schedule:** L6078, Grease Trap Program File; L6079, Sewer User Exemptions File; L6080, Discharge Permit-Unusual Requests; L6081, Construction Project Files Working File; L6082, Rain Gauge Data File; L6083, Daily Reports; L6084, Flow Charts-Pump Stations; L6085, Tier II Hazardous Chemical Annual Report; L6086, Flow Reports of Incoming Sewage Special Users; and L6087, Calibration/Inspection Report.

The Local Government General Records Retention Schedule may be used by all local public agencies in the Commonwealth. Examples are county governments, municipal governments, merged governments, schools, and all agencies within local governments. The issuance of this retention schedule in 1999 was prompted by a need to assemble those records that every local government agency may create or receive in the course of business.

The following additions to the Local Government General Records Retention Schedule were prompted by inquiries from a number of local governments. All of these record series come from the Lexington/Fayette Urban County Government Records Retention Schedule and have been approved by the Archives and Records Commission as a part of that retention schedule.

As a follow-up to a question about Series L6085, Tier II Hazardous Chemical Annual Report, by a member of the Advisory Committee, Carlton distributed a partial list of Tier II Hazardous Chemicals. Exposure to more than a certain amount of these chemicals is considered dangerous and agencies must keep a record of that distribution per the Occupational Safety and Health (OSHA).

Johnson made a motion to adopt the schedule addition, seconded by Kastner. The vote by the members and representatives present was unanimous.

**Cabinet for Health and Family Services – Department of Public Health --
Division of Public Health Protection and Safety -- Radiation Health and Toxic
Agency Control Branch**

Compton was the Records Analyst working on these additions and revisions. **Additions to Schedule:** Series 05771, Martha Oil Fields Surveillance Data; Series 05772, Maxey Flats Disposal Site Surveillance Data; Series 05773, Laboratory Surveillance Data; Series 05774, Radiation Producing Machine Vendor File; Series 05775, Radiation Producing Machine Operators File; Series 05776, Radiation Producing Machines Facility File; Series 05777, Radiation Producing Machines Physicists File; and Series 05785, Paducah Gaseous Diffusion Plant Surveillance File. **Revisions to Schedule:** *Closed Series:* Series 1135, Nuclear Engineering Company Inventory of Material Buried; Series 1136, Federal Performance Testing File; Series 1137, Radionuclide Analysis Field Study; and Series 1139, Special Surveillance Data.

KRS 211.842 - 852 mandates that the Cabinet for Health and Family Services conduct programs regarding all sources of ionizing and non-ionizing radiation. The duties of Radiation Health Branch are to ensure the beneficial use of radiation and protect the public from unnecessary exposure to the harmful effects of radiation. The Radiation Health Branch is responsible for licensure, registration, and certification of all uses of radiation, conducts inspections, reviews and validates environmental surveillance data, and manages compliance activities. The Branch is responsible for statewide emergency response to radiological incidents and emergencies. The Radiation Health Branch reviews and validates all data related to the Paducah Gaseous Diffusion Plant, the Martha Oil Fields and Maxey Flats Disposal Site that is presently undergoing Superfund remediation under a Court Ordered Consent Decree. In addition, the Radiation Health Branch collects information on non-ionizing radiation, such as laser and high tension electrical lines.

Compton summarized the schedule additions and revisions. The new schedule includes a summary of the electronic system used by Radiation Health Branch staff, along with a list of the records series contained on the system.

Ms. Smith made a motion to adopt the schedule additions and revisions, seconded by Schroeder. The vote by the members and representatives present was unanimous.

Justice and Public Safety Cabinet – Kentucky State Police

Compton was the Records Analyst working on this revision. **Revision to the Schedule:** Series 00145, Criminal Case File Report – Added access restriction KRS 61.878 (1) (a).

The Department of State Police was formed on July 1, 1948, when legislation was signed giving its officers full police powers, both traffic and criminal. All offices, facilities, equipment, duties, powers and funds of the State Highway Patrol were transferred to the Department. In 1956, the Department was abolished and it became the Division of Kentucky State Police in the Department of Public Safety. From 1973 to 2004, it was part of the Justice Cabinet. In 2004, the Department became part of the Justice and Public Safety Cabinet, by order of the Governor. Its duties and powers are contained in KRS Chapter 16. KRS 16.060 details the duties and powers of the Commissioner and officers of the Kentucky State Police. It is the duty of the Commissioner and each officer of the Department to detect and prevent crime, apprehend criminals, maintain law and order throughout the state, collect, classify and maintain information useful for the detection of crime and the identification, apprehension and conviction of criminals, and enforce the criminal as well as the motor vehicle and traffic laws of the Commonwealth. The KSP must also provide security of state facilities located in Frankfort, highway enforcement, and water safety enforcement, as provided in KRS Chapter 235.

Compton said that the confidentiality citation only applies to the personal information contained in the investigative file, such as the name and other information on the victim.

Bensenhaver made a motion to adopt the schedule revision, provided that the nature of the restricted information is specified on the retention schedule, seconded by Giesler. The vote by the members and representatives present was unanimous.

State University Model

Cundy was the Records Analyst working on these addition and revisions. **Additions to the Schedule:** Series U2000, Litigation File. **Revisions to the Schedule:** *The following are not changes in retention or disposition. They reflect an updates to the records Description and Analysis forms for these series:* **General Records – Fiscal Records:** Series U0229, Reports – Audit. **General Records – Student/Course Records:** Series U0406, Applications for Admissions - (Individuals who do not enter whether accepted or rejected). **Personnel – Affirmative Action/Employee Relations:** Series U0635, Affirmative Action/Equal Opportunity Form.

The State University Model Schedule governs retention and disposition for records common among Kentucky's Public Universities and its Community and Technical College System. This is part of a continuing effort to update the State University Model Records Retention Schedule.

Cundy summarized the schedule addition and revisions.

Bensenhaver said that KRS 61.878(1)(l) would be more appropriate than KRS 61.878(1)(h). KRS 61.878(1)(l) would only be applicable to attorney client privileged information and attorney work product.

Birdwhistell made a motion to adopt the schedule revision, seconded by Giesler. The vote by the members and representatives present was unanimous.

The next order of business was **Local Records Grants Review**.

Onkst recognized Carlton, who said that Local Records Branch staff had received over \$934,000.00 in grant applications this year. The amount of available General Fund money had been reduced again this year to \$305,600.00, despite the statute that required this be funded at the 2006 level of \$430,000.00. Over half of the total grants are for electronic projects, such as backfile conversion and new electronic systems. While the number of these types of projects will increase, the top priority of the Local Records Grants Program will always be security of records kept by local agencies, especially through security microfilming.

Money coming to the Grants Program as a result of the increase in the County Clerks' Legal Process Tax has totaled \$1,247,000.00 since January 2007. Of that, \$606,000.00 has been awarded. The remainder has been cut due to budgetary issues. Carlton expects that the combination of General Fund and Legal Process Tax revenue will total approximately \$800,000.00 in grant money per year.

Mr. Johnson made a recommendation that the slate of grants be approved by Commissioner Onkst, seconded by Ms. Smith. The vote by the members and representatives present was unanimous.

The next order of business was **Destruction of Microfilmed Records**.

Onkst recognized Carlton, who said that PRD staff had been talking to various county clerks about the possibility of clerks' offices not retaining paper copies of mortgage books, which have a permanent retention. Destruction of paper records would take place only if security microfilm copies of the mortgage books are maintained at KDLA. Clerks would also have a use copy, either on microfilmed or digitized. Commission members have the authority to approve this, and microfilm is an acceptable format for the record copy of a mortgage. Local Records staff surveyed clerks, and 84 of the 120 offices have digital imaging. It is likely that eventually, all 120 counties will have digital imaging.

Johnson said that this would allow clerks to save costs on shelving. It would also allow clerks to deal with the growth in the number of pages in a mortgage. Johnson is County Clerk of Laurel County. When he came into office, Laurel County had existed for 160

years and had 157 mortgage books. They are now approaching 900 books due to the size of mortgages. Storage space will ultimately be a significant problem for most or all county clerks.

Teague said that this would be a more effective use of resources. PRD would be storing a security copy on microfilm, while the clerk would have a copy of the film and a digital access copy. PRD rarely destroys paper copies of county clerk records, but has done so for the Court of Appeals, Supreme Court, and selected Executive Branch Agencies after microfilming. This destruction would involve modern mortgage books, not necessarily those documenting the beginnings of a county. If the oldest mortgage books have been microfilmed, the county clerk may enter into an agreement with the Local Historical Society so that they can store those records. This would address concerns of individuals who do not want to see original paper copies destroyed. The security copy in the clerk's office would be on film, while the original paper copy would be with the County Historical Society.

Mr. Morgan asked about the original copies of mortgages and noted the possibility of missing pages. Carlton said that once a mortgage is recorded, the original is returned to the owner. The official copy would be recorded in the mortgage book. Teague said that under Local Records grants, quality control processes are in place for microfilmed records, so if a page were missing, it would be noted before the book was destroyed. Carlton said that vendors who microfilm records onsite would note that as well on a title target. Johnson said that missing pages often result from carelessness on the part of researchers, and that electronic copies would be much easier to control.

Morgan asked about the potential backlog of material to be scanned in clerks' offices. Johnson said that his office does not have a backlog, though some clerks' offices do. Clerks generally tried to avoid a significant backlog, as it amounts to poor customer service.

Ms. Smith asked about procedures for the destruction of paper records, as there have been controversies involving clerks' destruction of records. Carlton said that, according to the County Clerks' Retention Schedule, if an instrument has been recorded, the clerk returns it, but can actually destroy it after two years and thirty days, as long as the clerk give notice. If the record contains confidential information, the records must be shredded or burned and a destruction certificate must be completed.

Robb requested clarification on what exactly was being proposed and who would make the decisions about what could be destroyed. Teague said that PRD staff would receive proposals from the clerks. The efforts would start with mortgage books and possibly broaden to other types of records. Local Records staff would get proposals, including destruction certificates for the original mortgage books, from the individual clerks. Staff would check to make sure PRD was storing security microfilm for the appropriate

records and make sure the requests were accurate regarding the materials in the clerk's office. Requests would be handled on a case-by-case basis.

Robb expressed concern that this would lead to a situation in which different counties would maintain different records in different formats. The user may have expectations of consistency from one county to another, so that uniformity would be more defensible. Teague said the proposals would come from the clerks, based on their local situation and needs, so that PRD would not be responsible for the amount of uniformity across the counties.

Rader asked if there were a date before which records could not be destroyed, and whether that would be uniform across counties. Carlton said that due to the Office of the County Clerk being an elected office, clerks are concerned with what their clientele want them to do. It is possible to institute, as part of a set of guidelines, a cutoff date for destruction such as that for Series L5048, Estate Settlements File - Unbound (Pre-1870), which are a permanent record. Guidelines from PRD can help Clerks make these decisions. Teague said that PRD staff would work with the County Clerks to apply appraisal criteria, especially to older materials, so that historically valuable materials would not be destroyed.

In response to a question by Onkst, Teague said that decisions to allow clerks to store materials with historical societies or other entities would be made on an individual basis. PRD staff would sign off on a memorandum of agreement between the fiscal court and the historical society and they could take all the mortgage books that would be eligible for destruction and move them offsite so the people who wanted to see the paper copy could see it and the people who needed the record for other purposes would use the microfilm copy.

Rader asked about the approval process for the memoranda of agreement. Teague said that Local Records staff work with the appropriate county staff, look at the facility, check the hours of operation, make sure the county clerk had a key if necessary, and that appropriate points regarding access and preservation are written into the agreement. As these agreements become more common, a template memorandum of agreement for use by Fiscal Courts would be useful.

Robb said he would have been more comfortable with a written request for support, giving a more detailed and concrete idea of what was being requested.

Onkst recommended that PRD staff come back with a written proposal. Commission members agreed that would be best.

Moving on to **other business**, Onkst expressed appreciation for Brian Lykins, who had recently retired. Mr. Lykins had represented the Auditor of Public Accounts at

Commission meetings for many years, and had participated in other committees such as the Electronic Records Working Group. His contributions were always valuable and valued.

Mr. Birdwhistell made a motion that a resolution be drafted in appreciation of Brian Lykins, seconded by Mr. Robb. The vote by the members and representatives present was unanimous.

Onkst recognized Cundy, who said that 725 KAR 1:061, **Records retention schedules; authorized schedules**, which had been promulgated in 2007 to support the retention schedules approved by the Commission, would need to be updated as the schedules change.

Cundy also said that 725 KAR 1:030, **Scheduling public records for retention and disposal; procedures**, which incorporated guidelines for records destruction and records retention scheduling, would be updated to account for changes to those guidelines. Most importantly, the 725 KAR 1:030 formerly said: "The State Librarian may designate the Director, Public Records Division, to approve disposal requests provided they are presented at the next Commission meeting." PRD staff had received public comment that this should not be eliminated and meant to insert language to that effect into the destruction guidelines. That language was overlooked and not included. PRD staff is asking for Commission members' approval to place language to this effect into the records destruction guidelines.

Mr. Johnson made a motion in support of placing the language in the guidelines, seconded by Mr. Birdwhistell. The vote by the members and representatives present was unanimous.

There being no further business, Onkst adjourned the meeting at 11:55.